

THE PROCESS

Complaint

In California, it is illegal to discriminate against anyone in housing because of race, color, religion, sex, marital status, disability (including AIDS and HIV diagnosis), national origin, familial status, sexual orientation or source of income. Arbitrary discrimination based on other personal characteristics may also be unlawful. Complaints may be filed by an individual or by the Director of the Department of Fair Employment and Housing.

Service

After a complaint is filed, a copy is served on the party who is alleged to have violated the law (the respondent). The complaint may also be referred to another state or federal agency with concurrent jurisdiction.

A respondent:

- ◆ Has the right to answer the complaint.
- ◆ Should provide a response which answers each allegation in the complaint in detail and includes supporting documentary evidence.
- ◆ Must provide the Department with requested data and any additional relevant information regarding the complaint.
- ◆ Must file his/her current address with the Department and notify the Department of any change of address which occurs while the complaint is pending.

No-Fault Settlement

A no-fault settlement provides an opportunity to resolve the complaint voluntarily without a determination as to its merits. This process allows the parties to:

- ◆ Avoid the administrative and financial burden of a lengthy investigation; and
- ◆ Reduce the monetary liability that can accrue during the course of an investigation.

The assigned consultant should be contacted to explore the possibility of resolving the complaint.

Confidentiality - Offers and counteroffers made in an effort to settle a case, as well as any information disclosed during formal conciliation, will be held confidential. All other information gathered in the course of an investigation is disclosable.

Investigation

If the complaint is not resolved during the preliminary stages, it will be fully investigated. If the investigation is not completed within 100 days, the parties will be advised of the reason(s) for the delay and the complaining party will be advised of his/her right to file a lawsuit. A Department staff member may need to:

- ◆ Interview the party against whom the complaint is filed, as well as other witnesses.
- ◆ Have access to pertinent records and documents for review.
- ◆ Make an on-site inspection of facilities and operations.
- ◆ Issue subpoenas or require that witnesses be deposed.

Conciliation

If the complaint is substantiated, a formal conciliation conference may be scheduled with Department staff. Corrective measures to resolve the complaint may require:

- ◆ The previously denied housing be made available.
- ◆ Compensation for any losses incurred because of the discrimination.
- ◆ Remedy for the victim's emotional distress.
- ◆ Correction of other harm(s) resulting from the violation(s).
- ◆ Modification of practices that adversely affect persons protected under the law.
- ◆ Other actions to eliminate the effects of discrimination.

The terms of any corrective measure will be formalized in a written agreement. The agreement will become part of the public record unless the parties, including the Department, agree that it will be held confidential.

Prosecution

If the Department determines that the law has been violated and is unable to resolve the complaint through conciliation, the Director may issue an accusation of discrimination. The accusation should be issued within 100 days of the filing of the complaint, unless it is impracticable to do so. However, the accusation **must** be issued within one year of the date a complaint is filed. After the accusation is issued, the parties have 20 days to elect either to have the matter heard by the Fair Employment and Housing Commission or to transfer the matter to court.

◆ *Fair Employment and Housing Commission*

If neither party elects to have the matter transferred to court, it will be heard by the Commission. The Commission will hear testimony under oath, render a decision and issue a legally enforceable order. The Commission's proceedings should be completed within one year of the date the complaint was filed, unless it is impracticable to do so. If the proceeding is not completed within one year, the Department must notify the parties of the reason for the delay.

The Commission may order remedies for out-of-pocket losses, injunctive relief, access to the housing previously denied, additional damages for emotional distress and civil penalties which will be awarded to the complainant.

The Commission's order may be appealed to or enforced by a Superior Court.

◆ *Court*

If either party elects to have the matter transferred to court, the Department will file a lawsuit on behalf of the complainant within 30 days of the election. Damages in court are unlimited.

Right to File a Lawsuit

Any person who believes that he/she has been discriminated against in violation of the housing discrimination provisions of the *California Fair Employment and Housing Act* may, within two years of the alleged discriminatory act, file a lawsuit. It is not necessary to file a complaint

with the Department of Fair Employment and Housing prior to the filing of a lawsuit. The time during which a complaint was pending with the Department of Fair Employment and Housing will not count when computing the two-year period within which a lawsuit must be filed.

Notice

Pursuant to *California Government Code section 12986*, this document constitutes notice of the procedural rights and obligations of a respondent to a complaint of discrimination filed with the Department of Fair Employment and Housing.



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Department of Fair Employment & Housing
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A Guide for Respondents (Housing)

The following information has been prepared by the Department of Fair Employment and Housing to assist persons and organizations charged with housing discrimination (the respondent) under California law in understanding their rights and responsibilities.

Respondents should know that:

- ◆ The complaint has been accepted after a careful screening process. The complaint contains allegations which, if proven, will substantiate a violation of the *Fair Employment and Housing Act*.
- ◆ Acceptance of the complaint does not, however, represent any determination that the law has been violated.
- ◆ The Department's proceedings are administrative, not criminal.
- ◆ During an investigation, the Department's role is that of a neutral fact-finder. The Department represents the State of California, not the complainant.
- ◆ The law prohibits retaliation against a complainant or any individual who provides information to the Department.
- ◆ The law requires that rental records and other written materials relevant to the complaint be retained until a determination has been reached and all appeals and proceedings have been terminated.
- ◆ An offer of a remedy to resolve the complaint is appropriate at any time.
- ◆ Throughout the process, they are given the opportunity to ask questions, provide information and suggest witnesses.
- ◆ The Department can subpoena records and witnesses if necessary, but prefers to work cooperatively with respondents.

For more information,
contact the Department
toll free at:
(800) 233-3212

TTY Number
(800) 700-2320

or visit our website at:
www.dfeh.ca.gov